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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,198	03/12/2004	Mark Pinson	CODEM-45956	8730
26252	7590	06/15/2006	EXAMINER	
KELLY LOWRY & KELLEY, LLP 6320 CANOGA AVENUE SUITE 1650 WOODLAND HILLS, CA 91367			LABAZE, EDWYN	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/800,198		PINSON, MARK	
	<b>Examiner</b>		<b>Art Unit</b>	
	EDWYN LABAZE		2876	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3122004</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. Receipt is acknowledged of IDS filed on 3/12/2004.
2. Claims 1-29 are presented for examination.
3. This application is a CIP of 10/245,654 filed on 9/16/2002 now abandoned, which claims the benefit of 60/332,911 filed on 9/17/2001.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Cass et al. (U.S. 5,946,414).

Re claims 1, 17, and 23: Cass et al. {hereinafter referred as “Cass”} discloses encoding data in color images using patterned color modulated image regions, which includes a data field {herein a message data 20 arranged in a two-dimensional message array encoding with a “0” and a “1” values, wherein each cell has a different color} comprised of a plurality of data cells, each data cell being assigned a color corresponding to a data pattern value, a finder pattern value or an overlapping data pattern value and finder pattern value (col.13, lines 45+; col.14, lines 10+; col.15, lines 1+); wherein a finder pattern is discernable when the symbol is subjected to a first color filter means {herein interpreted as the first color modulation} (col.24, lines 47+); and wherein a data pattern is discernable when the symbol is subjected to a second color filter means

{herein interpreted as the second color modulation} (col.18, lines 6+; col.24, lines 48+). Cass further teaches that the first color filter means comprises a first color illumination source {herein interpreted as color 83/662} (see figs. # 12 & 26; col.18, lines 32+; col.23, lines 14+), and the second color filter means comprises a second color illumination source {herein interpreted as color 84/660} (see figs. # 12 & 26; col.23, lines 14+; col.24, lines 30+).

Re claims 2 and 24: Cass teaches a system and method, wherein the first color filter means comprises a first color illumination source {herein interpreted as color 83/662} (see figs. # 12 & 26; col.18, lines 32+; col.23, lines 14+).

Re claims 3 and 25: Cass discloses a system and method, wherein the second color filter means comprises a second color illumination source {herein interpreted as color 84/660} (see figs. # 12 & 26; col.23, lines 14+; col.24, lines 30+).

Re claims 4-5: Cass teaches a system and method, wherein the first color filter means comprises a first color filter through which the symbol is viewed and the second color filter means comprises a second color filter through which the symbol is viewed {herein Cass teaches that the color modulation causes an output signal block, wherein the color difference minimizes color response by a human viewer and maximizes color response by a scanner} (col.10, lines 1-62; col.17, lines 10-20; and col.18, lines 1-37).

Re claims 6-7: Cass discloses a system and method, wherein the first color filter means comprises an electronic device adapted to process the symbol image in accordance with a first color filter; and wherein the second color filter means comprises an electronic device adapted to process the symbol image in accordance with a second color filter (see fig. # 42; col.27, lines 1-67; col.28, lines 1+).

Re claims 8 and 26: Cass teaches a system and method, wherein the data cells are arranged into a matrix defining a rectilinear {herein a straight line} data field (col.19, lines 1+; col. 20, lines 30+; col.22, lines 13+).

Re claims 9-10, 19: Cass discloses a system and method, wherein the color assigned to at least one of the plurality of data cells is in the visible or invisible light spectrum {herein Cass teaches means of increasing the spatial frequency of the color-modulated sub-regions for decreasing the visibility of the signal block to human viewers} (col.25, lines 38+; col.26, lines 1-67; col.27, lines 1+).

Re claims 12-13, 18: Cass teaches a system and method, wherein at least one data cell is assigned a color corresponding to an overlapping {herein defined and interpreted as means of superimposing a grid over the original color image} data pattern value and finder pattern value, wherein each data cell is assigned a color corresponding to an overlapping data pattern value and a finder pattern value (see figs. # 8-10; col.17, lines 37-48; col.29, lines 45+).

Re claims 14-15, 21: Cass discloses a system and method, wherein at least one of the plurality of data cells is assigned a color corresponding to multiple data pattern values, wherein each data cell is assigned a color corresponding to multiple data pattern values (col.21, lines 47-64; cols.22-23, lines 1-67).

Re claims 16, 22, and 27-28: Cass teaches a system and method, wherein each data cell is assigned a binary value {either a "0" or "1"} corresponding to a data pattern or a finder pattern value (col.14, lines 10-34; col.15, lines 44-67; col.16, lines 1-28).

Re claim 20: Cass discloses a system and method, wherein at least a subplurality of the data cells are assigned a color corresponding to a tinder pattern value and multiple data pattern values (col.18, lines 1-47).

Re claim 29: Cass teaches a system and method, including means of determining the location of symbol damage using a color filter (col.31, lines 1-67).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hood et al. (U.S. 5,416,308) discloses transaction document reader.

Tsuji et al. (U.S. 5,629,990) teaches image processing system.

Fukuda et al. (U.S. 6,131,807) discloses information recording medium and information reproduction system.

Matoba et al. (U.S. 6,269,183) teaches image processing device and still image pickup device, and method for processing image.

Tack-don et al. (U.S. 7,020,327) teaches machine-readable code image and method of encoding and decoding the same.

Damera-Venkata et al. (US 2003/0112471) teaches generating graphical bar codes by half-toning with embedded graphical encoding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

el  
Edwyn Labaze  
Patent Examiner  
Art Unit 2876  
June 7, 2006



**THIEN M. LE**  
**PRIMARY EXAMINER**